

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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RESOLUTION NO. RES-14-0004

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH PROVIDING THAT A BALLOT MEASURE MAY BE SUBMITTED TO THE QUALIFIED VOTERS OF THE CITY OF LONG BEACH AT THE APRIL 8, 2014 CITYWIDE ELECTION ESTABLISHING A MARIJUANA BUSINESS TAX

WHEREAS, every person engaged in business activity in the City of Long Beach is required to obtain a business tax certificate and to pay the City's business tax; and

WHEREAS, the City of Long Beach has a business tax system which applies to all businesses in the City, and which contains a list of categories of types of businesses, and provides for the collection of business taxes at specified rates based on the classifications of the businesses operating in the City; and

WHEREAS, because marijuana businesses and marijuana cultivation facilities did not exist at the time the business tax system was created, Long Beach's current business tax category list does not contain a specific tax category for such businesses; and

WHEREAS, accordingly, the City Council of the City of Long Beach desires to amend Chapter 3.80 by adding Section 3.80.261 to the Long Beach Municipal Code to create and administer a business license tax on all marijuana businesses located in the City; and

WHEREAS, all revenues received from the tax will be deposited in the General Fund of the City to be expended for general fund purposes; and

WHEREAS, the proposed ordinance shall be submitted to the qualified electors of the City of Long Beach at the next regularly scheduled municipal election for

1 members of the City Council on April 8, 2014;

2 NOW, THEREFORE, the City Council of the City of Long Beach resolves as  
3 follows:

4 Section 1. Under the provisions of the Constitution and laws of the State  
5 of California and the Charter of the City of Long Beach, at the regularly scheduled  
6 Primary Nominating Election to be held in the City of Long Beach, between the hours of  
7 7:00 a.m. and 8:00 p.m. on Tuesday, the 8th day of April, 2014, the following proposition  
8 which, for identification purposes only, is marked as Proposition X, shall be submitted to  
9 a vote of the qualified electors of the City of Long Beach:

10 Proposition X. Long Beach Marijuana General Tax Measure.

11 To protect public safety services such as 911 emergency response,  
12 police and fire, as well as essential quality of life programs like parks,  
13 libraries, public works and infrastructure, shall the City of Long Beach  
14 impose a general tax initially set at six percent (6%) of annual gross  
15 receipts, but not to exceed ten percent (10%) of annual gross receipts, on  
16 medical marijuana businesses if legalized, with a tax on cultivation sites  
17 initially set at fifteen dollars (\$15) per square foot annually, but not to  
18 exceed fifty dollars (\$50) per square foot annually, with an annual CPI  
19 adjustment?

20 Section 2. Notice is hereby given of the time and place of the election.

21 The City Clerk is directed and authorized to print and publish the proposition as required  
22 by law. All particulars not provided in this resolution shall be held under the provisions of  
23 law governing the conduct of such elections in the City of Long Beach.

24 Section 3. The proposition shall be stated as provided in Section 13119  
25 of the Elections Code of the State of California. The ballot used in voting upon the  
26 propositions shall contain the words "yes" and "no". The text of Proposition X is set forth  
27 in full in Exhibit "A".

28 Section 4. That only qualified voters of the City of Long Beach shall be

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permitted to vote in the election called by this resolution.

Section 5. This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of January 7, 2014, by the following vote:

Ayes: Councilmembers: Lowenthal, DeLong, O'Donnell,  
Andrews, Johnson, Austin, Neal,  
Garcia.

Noes: Councilmembers: Schipske.

Absent: Councilmembers: None.

  
City Clerk

# EXHIBIT "A"

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ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LONG BEACH,  
CALIFORNIA AMENDING THE LONG BEACH MUNICIPAL  
CODE BY ADDING SECTION 3.80.261 RELATING TO A  
MARIJUANA BUSINESS LICENSE GENERAL TAX

THE PEOPLE OF THE CITY OF LONG BEACH DO ORDAIN AS  
FOLLOWS:

Section 1. The Long Beach Municipal Code is amended by adding  
Section 3.80.261 to read as follows:

3.80.261 Marijuana Businesses.

A. Annual Business License Tax.

1. Every Marijuana Business whether it is a “not for  
profit,” a “non-profit,” or a “Non-Profit Organization,” as defined in this  
Section, or a for-profit business, shall pay an annual business  
license tax in accordance with Chapter 3.80 of this Code and the  
Sections and Subsections hereunder.

2. For the purposes of this Section, a Marijuana  
Business and a Marijuana Cultivation Facility are each considered to  
be a business as that term is defined in Long Beach Municipal Code  
3.80.133.

3. For the purposes of this Section, a Marijuana  
Business and a Marijuana Cultivation Facility are not considered to  
be a religious or charitable organization as defined in Section  
3.80.320 (Exemption – Religious and charitable organizations).

4. For the purposes of this Section, “Marijuana  
Business” shall mean any activity that involves, but is not limited to

1 planting, cultivating, harvesting, transporting, dispensing, delivering,  
2 selling at retail or wholesale, manufacturing, compounding,  
3 converting, processing, preparing, storing, packaging or testing, any  
4 part of the plant cannabis sativa L, or any of its derivatives.

5 5. For the purposes of this Section, a not for profit,  
6 a non-profit, or a "Non-Profit Organization" shall mean any  
7 association, corporation or other entity that is exempt from taxation  
8 measured by income or gross receipts under Article XIII, Section 26  
9 of the California Constitution.

10 6. For the purposes of this Section, "Gross  
11 Receipts" shall mean any transfer of title or possession, exchange or  
12 barter, conditional or otherwise, in any manner or by any means  
13 whatsoever, of tangible personal property for a consideration  
14 including any monetary consideration for marijuana whatsoever,  
15 including, but not limited to, membership dues, reimbursements or  
16 the total amount, in any calendar year of cash or in-kind  
17 contributions, including all operating costs related to the growth,  
18 cultivation or provision of marijuana or any transaction related  
19 thereto. The term "Gross Receipts" shall also include the total  
20 amount, in any calendar year, of the sale price of all sales, the total  
21 amount charged or received for the performance of any act, service  
22 or employment of whatever nature it may be, whether or not such  
23 service, act or employment is done as a part of or in connection with  
24 the sale of goods, wares, merchandise, for which a charge is made  
25 or credit allowed, including all refunds, cash credits and properties of  
26 any amount or nature, any amount for which credit is allowed by the  
27 seller to the purchaser without any deduction therefrom, on account  
28 of the cost of the property sold, the cost of materials used, the labor

1 or service cost, interest paid or payable, losses, or any other  
2 expense whatsoever; provided that cash discounts allowed or  
3 payment on sales shall not be included. "Gross Receipts" shall also  
4 include the amount of any federal, manufacturer's or importer's  
5 excise tax included in the price of property sold, even though the  
6 manufacturer or importer is also the retailer thereof and whether or  
7 not the amount of such tax is stated as a separate charge. "Gross  
8 Receipts" shall not include the amount of any federal tax imposed on  
9 or with respect to retail sales whether or not the amount of such tax  
10 is stated as a separate charge. "Gross Receipts" shall not include  
11 the amount of any federal tax imposed on or with respect to retail  
12 sales whether imposed upon the retailer or the consumer and  
13 regardless of whether or not the amount of federal tax is stated to  
14 customers as a separate charge, or any California state, city or city  
15 and county sales or use tax required by law to be included in or  
16 added to the purchase price and collected from the consumer or  
17 purchaser, or such part of the sales price of any property previously  
18 sold and returned by the purchaser to the seller which is refunded by  
19 the seller by way of cash or credit allowances given or taken as part  
20 payment on any property so accepted for resale. "Gross Receipts"  
21 shall be calculated without any deduction on account of any of the  
22 following:

- 23 a. The cost of tangible property sold or
- 24 bartered;
- 25 b. The cost of materials or products used,
- 26 labor or service cost, interest paid, losses, or other expense; or
- 27 c. The cost of transportation of the
- 28 marijuana, or other property or product.

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7. For the purposes of this Section, "Square Foot" or "Square Footage" shall mean the sum of the gross horizontal areas of all floors, including garages, carports, porches or similar structures, parking structures, usable basement areas, cellars, hallways, or common areas below the roof and within the outer surface of the main walls of buildings (or the center lines of party walls separating such buildings or portions thereof) or within the lines drawn parallel to and two feet (2') within the roof line of any building or portion thereof without walls (which includes Square Footage of all porches), and including pedestrian walkways or corridors. For purposes of this Section, the portion of a site devoted to retail sales shall not be included in the Square Footage calculation unless it is for a non-profit as defined by this Chapter.

8. For the purposes of this Section, a "Marijuana Business," "Cultivation Facility" or "Grow Site" shall mean the Square Footage of any place or location where marijuana or any of its derivatives is cultivated, grown, harvested, packaged, processed or stored.

B. Business license tax rates for Marijuana Businesses and Cultivation Facilities.

1. Every Marijuana Business shall pay business tax at a rate of up to ten percent (10%) of Gross Receipts. The tax shall be initially set at a rate of six percent (6%). The tax under this Chapter shall not be increased on Marijuana Businesses unless and until the City Council by ordinance takes action, and the tax rate shall not exceed ten percent (10%) of Gross Receipts.

2. Notwithstanding the maximum tax rate of ten percent (10%) of Gross Receipts imposed under Subsection B.1.,



1 the City Council may in its discretion at any time by ordinance  
2 implement a lower tax rate for all Marijuana Businesses, as defined  
3 in such ordinance, subject to the maximum rate of ten percent (10%)  
4 of Gross Receipts. The City Council may by ordinance increase any  
5 such tax rate from time to time, not to exceed the maximum tax rate  
6 of ten percent (10%) of Gross Receipts established under  
7 Subsection B.1.

8 3. In addition to the foregoing, the owner, operator,  
9 or lessee of any "Marijuana Business," "Cultivation Facility" or "Grow  
10 Site" existing to supply marijuana to a Marijuana Business shall pay  
11 a tax of up to fifty dollars (\$50.00) per Square Foot on all  
12 improvements owned, rented, leased or otherwise occupied or used  
13 by a Cultivation Facility or Grow Site. The tax shall initially be set at  
14 a rate of fifteen dollars (\$15) per Square Foot. The City Council may  
15 by ordinance increase any such tax rate from time to time, not to  
16 exceed the maximum tax rate of fifty dollars (\$50) per Square Foot.

17 4. Notwithstanding Section 3.80.320 of this Code,  
18 there is imposed on every Marijuana Business that is a not for profit,  
19 a non profit, or Non-Profit Organization, or a for profit business,  
20 including all of its ancillary locations, regardless of the number of  
21 square feet it occupies, a tax of ten dollars (\$10.00) per Square Foot  
22 on all business improvements occupied by that Marijuana Business  
23 and Cultivation Facility or Grow Site. For the purpose of this Section,  
24 all of the square feet of improvements owned, rented, leased or  
25 otherwise occupied or used by a Marijuana Business within the City  
26 shall be cumulated.

27 5. All Marijuana Businesses or Marijuana  
28 Cultivation Facilities shall pay a minimum tax of one thousand dollars

1 (\$1,000.00) annually.

2 C. Modification, Repeal or Amendment.

3 The City Council may repeal the ordinance codified in this  
4 Section, or amend it in a manner which does not result in an increase in  
5 the tax or taxes imposed herein, without further voter approval. If the City  
6 Council repeals said ordinance or any provision of this Section, it may  
7 subsequently reenact it without voter approval, as long as the reenacted  
8 ordinance or Section does not result in an increase in the tax or taxes  
9 imposed herein.

10 D. Administration.

11 The City Manager, or designee, and/or the City Council by  
12 ordinance, may promulgate regulations to implement and administer this  
13 Section including, but not limited to regulations allowing Marijuana  
14 Businesses to remit taxes less frequently than monthly.

15 E. Annual Adjustment.

16 The taxes imposed by this Section shall be adjusted  
17 annually by the Director of Financial Management. Beginning on July 1,  
18 2016, and on July 1 of each succeeding year thereafter, the amount of  
19 each tax imposed by this Section shall be adjusted equivalent to the most  
20 recent change in the annual average of the Consumer Price Index ("CPI")  
21 for all urban consumers in the Los Angeles-Riverside-Orange County  
22 areas as published by the United States Government Bureau of Labor  
23 Statistics; however no adjustment shall decrease any tax imposed by this  
24 Section. For the purposes of calculating the annual adjustment factor  
25 under this Section, the base year shall be that year ending with December  
26 31, 2014. Rates shall next be adjusted on July 1, 2016, and annually  
27 thereafter, based on the annually calculated change from the base year.  
28 The July 1, 2016 adjustment shall be the change in the average CPI for

1 the year ending December 31, 2015.

2 F. Reporting and Remittance.

3 In order to aid in the City's collection of taxes due under this  
4 Section and to ensure that all Marijuana Businesses and Cultivation Sites  
5 are taxed consistently to the best of the City's ability, beginning as set  
6 forth in Section K, below, and monthly thereafter, each Marijuana  
7 Business shall report to the City any Gross Receipts received during the  
8 reporting period and shall likewise remit to the City the taxes due and  
9 owing during said period. For purposes of this Section, taxes shall begin  
10 to accrue on the date that a person or entity first receives a business  
11 license or other permit to operate as a Marijuana Business or Cultivation  
12 Site. Square Footage payments shall be made annually at the beginning  
13 of the calendar year and should be based on the most recent County  
14 Assessors records, pro-rated based on the number of months of  
15 operation.

16 G. Delinquent date-Penalty.

17 Any individual or entity who fails to pay the taxes required by  
18 this Section within thirty (30) days after the due date shall pay in addition  
19 to the taxes a penalty for nonpayment in a sum equal to twenty-five  
20 percent (25%) of the total amount due. Additional penalties will be  
21 assessed in the following manner: ten percent (10%) shall be added on  
22 the first day of each calendar month following the month of the imposition  
23 of the twenty five percent (25%) penalty if the tax remains unpaid; up to a  
24 maximum of one hundred percent (100%) of the tax payable on the due  
25 date. Receipt of the tax payment in the office shall govern the  
26 determination of whether the tax is delinquent. Postmarks will not be  
27 accepted as adequate proof of a timely payment.

28 H. Records Inspection.

1                               Whenever it is necessary to examine any books or records,  
2 including tax returns, of any Marijuana Business or Cultivation Site in the  
3 City to ascertain the amount of any tax due pursuant to this Section, the  
4 City shall have the power and authority to examine such necessary books  
5 and records at any reasonable time including, but not limited to, during  
6 normal business hours. Records must be maintained for no less than  
7 seven (7) years.

8                               I.       Suspension, Revocation and Appeal.

9                               The provisions of Sections 3.80.429.1 (Suspension or  
10 Revocation) and Section 3.80.429.5 (Appeal of License Revocation) shall  
11 apply in the case of Marijuana Businesses or Cultivation Sites governed  
12 by this Section.

13                              J.       Application of Provisions.

14                              No business license permit issued under the provisions of  
15 this Article, or the payment of any tax required under the provisions of this  
16 Article shall be construed as authorizing the conduct or continuance of any  
17 illegal business or of a legal business in an illegal manner. Nothing in this  
18 Section implies or authorizes that any activity connected with the  
19 distribution or possession of cannabis is legal unless otherwise authorized  
20 and allowed by California and federal law. Nothing in this Section shall be  
21 applied or construed as authorizing the sale of marijuana.

22                              K.       Operative Date.

23                              This ordinance establishing a medical Marijuana Business  
24 tax shall only become operative 1) if the City repeals Section 5.89 of the  
25 Long Beach Municipal Code (banning the sale of marijuana in the City of  
26 Long Beach) and 2) if the City adopts a regulatory scheme to permit  
27 cultivation, dispensing or sale of medical marijuana. The tax shall become  
28 effective on the effective date of the regulatory ordinance.

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Section 2. If any section, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining sections, sentences, clauses, phrases, or portions of this ordinance shall nonetheless remain in full force and effect. The people of the City of Long Beach hereby declare that they would have adopted each section, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable and, to that end, the provisions of this Ordinance are severable.

Section 3. As provided in Section 2001 of the Long Beach City Charter, if a majority of those electors voting on this ordinance vote in favor of same, it shall be adopted upon a declaration of the result of such ballot by the City Council, and it shall take effect ten (10) days after that date, or the effective date of the regulatory ordinance, whichever is later.

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